

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5801-02  
Bill No.: HCS for HB 1795  
Subject: Natural Resources Department; Parks and Recreations; State Treasurer  
Type: Original  
Date: April 10, 2012

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Bill Summary: This proposal changes the laws regarding the Department of Natural Resources.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(\$66,000)	(\$52,000)	(\$37,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$66,000)</b>	<b>(\$52,000)</b>	<b>(\$37,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
State Park Earnings Fund	\$66,000	\$52,000	\$37,000
Safe Drinking Water	\$0 to \$3,833,333	\$0 to \$4,600,000	\$0 to \$4,600,000
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to \$3,833,333</b>	<b>\$0 to \$4,600,000</b>	<b>\$0 to \$4,600,000</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 14 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Drinking Water State Revolving	\$12,000,000 to \$18,000,000	\$12,000,000 to \$18,000,000	\$12,000,000 to \$18,000,000
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$12,000,000 to \$18,000,000</b>	<b>\$12,000,000 to \$18,000,000</b>	<b>\$12,000,000 to \$18,000,000</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

#### *Sections 34.032 and 260.255 - Recycled Content in Newspapers*

Officials at the **Department of Natural Resources (DNR)** assumes this proposal has the potential to positively impact small publishing businesses that publish a newspaper with a daily distribution of 15,000 or more on the first day published.

DNR assumes the economic impact of the proposed legislation would be positive as publishers would no longer be spending time to report information on recycled content newsprint used by the publication and the cost of time spent completing any associated waiver requests.

DNR state over the past 3 years, DNR has seen a steady decline in the print publications within the state required to report recycled content as evidenced by the number of certified letters mailed.

DNR state the department received 102 letters in CY 2008, 88 in CY 2009, 69 in CY 2010 and 67 in CY 2011 from newspaper publishing companies.

DNR state from the responses received thus far for CY 2011, the Department is aware several more newspaper publications will no longer meet the requirements for submitting information.

DNR assumes the proposed repeal of 260.255 RSMo will allow a minimal amount of one staff person's time to be redirected towards other environmental tasks within the Solid Waste Management Program (SWMP). The SWMP would see a minimal reduction in expenses related to the cost associated with certified mailings from newspaper publications.

**Oversight** assumes there is no fiscal impact from this section on state or local government funds.

#### *Section 253.090 - State Parks Earnings Fund*

Officials from the **Department of Natural Resources (DNR)** assume this proposal authorizes the State Treasurer to deposit all monies in the State Parks Earnings Fund in any of the qualified depositories of the State.

ASSUMPTION (Continued)

DNR state currently, interest generated from the State Parks Earnings Fund is deposited to General Revenue. This proposal would allow the State Parks Earnings Fund to retain the interest. Assuming an interest rate of 0.65%, and projected revenues and expenditures, projected interest retained is estimated at \$66,000 for FY 2013, \$52,000 for FY 2014 and \$37,000 for FY 2015.

DNR assumes Revenue into the State Parks Earnings (SPE) are derived from privileges, conveniences, concessionaire contracts and/or all money received by gifts, bequests, or contributions from county or municipal resources. Currently, interest received on these funds is deposited into the General Revenue Fund. This proposal allows interest to be maintained in the SPE Fund.

DNR assumes no new fees or taxes are being requested under this section.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assumes the proposal should not result in additional costs or savings to the division. BAP deferred to the Department of Natural Resources and the State Treasurer's Office for an estimate of the loss in revenues to the General Revenue Fund that would result from the measure's redirection of interest earnings away from the General Revenue Fund and into the State Park Earnings Fund.

*Section 260.330 - Solid Waste Tonnage Fees*

Officials at the **Department of Natural Resources (DNR)** assumes this proposal limits the ability of the department to increase the solid waste tonnage fee with the exception being an annual increase based upon the CPI or its successor index on only the department's 39% share of the fees.

DNR assumes Solid Waste Management Districts fund local grants that are made available to small and large businesses, municipalities, and individuals for reduce/reuse/recycle projects. The exact decrease in funding is indeterminable due to the number of variables affecting generation and disposal of solid waste in the state.

DNR states the department does not receive any General Revenue funds for solid waste activities and assumes this proposal would only impact Total State Revenue if the department has a need to increase the solid waste tonnage fee at a rate greater than the annual increase in the CPI.

ASSUMPTION (Continued)

DNR states the total tonnage entering landfills is decreasing.

DNR states since the department is allowed to retain only 39% of the solid waste tonnage fees, the remaining fees are statutorily required to be distributed as follows: \$800,000 to Environmental Improvement and Energy Resources Authority's Market Development Program and 61% + \$200,000 to the 20 solid waste management districts, the potential exists in the future for the department to become unable to provide all services required by statute due to revenues being less than needed to operate the program.

DNR assumes the exact fiscal impact and the point at which solvency of the program will become an issue to the department is unknown.

Officials at the **St. Louis - Jefferson Solid Waste Management District, Mid America Regional Council Solid Waste Management District, and Region M Solid Waste Management District (SWMD)** each state the Solid Waste Management Fund was created in 1990 with an established fee of \$1.50 per ton for waste disposed in Missouri landfills. The original fee could be adjusted by inflation according to the consumer price index. In 2005 the fee was capped at \$2.11 per ton with an expiration date of October 1, 2014.

SWMD states a study was conducted by the University of Missouri that estimated if the cap on the waste disposal fee had not been implemented the current fee would be \$2.55 per ton, a difference of \$0.44 cents per ton from the capped fee.

SWMD assumes this proposal permanently caps solid waste management fees paid into the Solid Waste Management Fund which will reduce future resources available to support the recycling industry.

**Oversight** assumes this proposal removes the October 1, 2014 end date for the annual adjustment for inflation cap on solid waste management fees.

**Oversight** assumes this proposal is a continuation of the cap beyond October 1, 2014 and will result in no change to the current rate at which solid waste management fees are assessed but permanently prevent an annual inflation adjustment for those fees.

**Oversight** assumes DNR and SWMD will match costs to meet the revenues received from solid waste management fees and therefore have no additional fiscal impact on state or local government funds.

ASSUMPTION (Continued)

*Section 260.373 - Resource Conservation and Recovery Act (RCRA)*

Officials at the **Department of Natural Resources (DNR)** assume this proposed new section would limit the authority of the Commission to promulgate rules to implement the Hazardous Waste Management Law found in sections 260.350 to 260.434 RSMo. Other provisions of law notwithstanding, the Commission would only have authority to establish standards that are required under the federal Resource Conservation and Recovery Act (RCRA).

DNR state the federal act establishes a regulatory framework for hazardous waste generators, hazardous waste transporters, and permitted hazardous waste facilities. Section 260.373.1 of the proposal states that standards established by the commission shall not be any stricter than those required under RCRA.

DNR state once EPA has adopted rules at the federal level, states then adopt rules at the state level that are functionally equivalent to the federal rules on the same topic. The basic test applied by EPA in determining whether states meet the requirement to be authorized is that state programs may not be less stringent than the federal laws and regulations adopted under RCRA. States can be more stringent or broader in scope than EPA; they just cannot be less stringent.

DNR assumes Missouri, like many other states, implements the requirement of authorized states to be no less stringent by incorporating the federal regulations by reference. Missouri then modifies the federal regulations, and the state modifications are what constitute the majority of the hazardous waste rules found in Title 10, Division 25 of the Code of State Regulations. Because all that is required of authorized states is that they be no less stringent, any of the Missouri regulations could be determined to be prohibited by this bill as everything in the state rules either provides additional clarification, adds to, excludes from, or otherwise modifies the federal regulations that are incorporated by reference. None of this additional material is "required", so consistent with section 260.373.1, which limits the commission's authority to standards that are required under RCRA, the department anticipates that many of our existing state rules on hazardous waste would have to be repealed.

DNR assumes many of these rules have been developed to address situations that are either: 1) unique to Missouri; 2) that are otherwise unaddressed or incompletely addressed in the federal regulations; or 3) that are in response to statutory requirements developed by the legislature and signed into law. The state regulations that are stricter than federal were promulgated by the Hazardous Waste Management Commission to be responsive to the needs and concerns of citizens and to help prevent contamination of land, surface water, groundwater and air.

ASSUMPTION (Continued)

DNR assumes in reviewing the Missouri program as a whole, the EPA considers the state requirements that are more stringent when determining that the program as a whole is no less stringent, even though there are certain state regulations that are actually less stringent than what is required under federal regulations. It is likely that EPA would reconsider these provisions if Missouri's ability to offset the less stringent provisions of its program with additional state-specific requirements were eliminated.

**Oversight** assumes all rules would be set to maintain compliance with RCRA.

**Oversight** assumes any fees established in statute for the Hazardous Waste Program or Solid Waste Management Program as related to fees will remain the same.

**Oversight** assumes fees established by rule would be set to match the required costs of compliance with RCRA resulting in no additional fiscal impact from this proposed section on state or local funds.

*Section 640.100 - Extends the Safe Drinking Water Fee*

Officials at the **Department of Natural Resources (DNR)** assume this section would extend the drinking water primacy fee in Section 640.100, RSMo until September 1, 2017. Currently this fee is set to expire September 1, 2012.

DNR states, this proposal would continue funding to implement, administer, and enforce public drinking water requirements for safe drinking water provided to the public. Public water systems serve more than 90% of Missouri citizens.

DNR states, this proposal would continue support for monitoring, regulatory oversight, and contaminant mitigation as necessary to provide safe drinking water.

DNR states, primacy fees provide 43% of the support needed for the department's public drinking water effort, allowing the state to maintain its delegated authority, or primacy, under the federal Safe Drinking Water Act.

DNR states, primacy fees provide the match for the 10 percent set-aside of the Drinking Water State Revolving Fund capitalization grants for public water system supervision. In order to obtain these federal funds of approximately \$1.0 million per year, Missouri is required to provide at least an equal amount of state funds, at least half of which must be in addition to the amount the state expended in Federal Fiscal Year 93. Without renewal of these fees the department will not be able to provide the required state matching funds.

ASSUMPTION (Continued)

DNR states, with passage of this proposal, the state would be able to maintain its primacy delegation authority and qualify for federal state revolving fund capitalization grants that provide low-cost loans to public water systems and funding for source water protection and other specified activities under the federal Safe Drinking Water Act.

DNR states, the department does not anticipate a fiscal impact as a result of this proposal if the sunset date is extended. However, if the sunset provision is not amended as proposed, the estimated total loss of revenue to support safe drinking water in Missouri is approximately \$4.6 million per year to the Safe Drinking Water Fund.

**Oversight** assumes the proposed legislation does not change DNR's authority but would continue to fund an existing program. Current law contains an expiration date of September 1, 2012 for the collection of the drinking water primacy fee. This proposal would extend the expiration date of the safe drinking water primacy fees by 5 years to September 1, 2017.

**Oversight** assumes under federal law, only states that maintain their primacy delegation qualify for federal capitalization grants for the Drinking Water State Revolving Fund (DWSRF). The extension of the primacy fee will continue to draw down federal matching grants of \$12,000,000 to \$18,000,000 per fiscal year to the DWSRF.

*Section 640.950 - Renewable Energy Pilot Program for State Parks*

Officials at the **Department of Natural Resources (DNR)** assume this section would create the Renewable Energy Pilot Program where the Department in consultation with the Public Service Commission (PSC) would develop and implement a pilot program in which renewable energy technology is used to operate a state park.

DNR states, the PSC shall retain authority to regulate the rates and cost recovery for electric utilities under its jurisdiction that enter into a contractual agreement to provide renewable energy resources for the department. The department would also be allowed to contract with those electric utilities that are unregulated by the Commission.

DNR assumes, this proposal is a pilot program which would begin with the selection of a suitable state park by August 8, 2013 with a goal of achieving 100% renewable energy resources within the boundaries of the park using as many energy efficient products as possible. The proposal states that the goal of completing the pilot program would be August 28, 2018.

DNR states, beginning August 28, 2012, the department would be required to submit an annual report to the General Assembly if the goal of this proposal has not been met.



ASSUMPTION (Continued)

DNR states, the proposal would require the department to promulgate rules to implement the provisions of this legislation.

DNR states, the department assumes the General Assembly would have to appropriate funds to pay for energy efficiency measures and renewable energy for the pilot park program. It would be necessary to purchase renewable systems to install on-site or to purchase renewable energy credits (RECs) from electric utilities, if available. Renewably generated electricity cannot be directed to a particular site from the grid.

DNR states, for purposes of this fiscal note, the department assumes the fiscal impact to implement this proposal would include additional resources to conduct energy use studies; make recommendations on what technologies are needed; develop requests for proposals; and oversee contracts. In addition, the department would need sufficient resources to select, purchase, and install renewable energy sources, and on-going maintenance of the renewable resources. Costs would also include promulgating rules to implement the requirements of this legislation. The department's Division of Energy assumes they would request one (1) Energy Engineer II to implement this proposal.

The department's **Division of State Parks (DSP)** operates 85 state parks and historic sites in Missouri. The costs to implement the pilot program is unknown at this time due to the range of energy needs in Missouri's state parks and historic sites and the need for further assessment and analysis to determine the best site for the proposed pilot project.

DNR assumes no funding source is identified for the proposed pilot project; therefore for purposes of this fiscal note, the department assumes there would be an unknown fiscal impact to the General Revenue Fund to pay for the associated costs.

**Oversight** assumes this does not reflect the possibility of net metering by the park should there be excess energy credits. Also, in Section 640.950.3, the Department of Natural Resources could enter into a contract with the utility to provide for renewable energy resources for the department. This applies to those utilities regulated by the Commission as well as those electric utilities that are unregulated by the commission.

**Oversight** assumes the costs associated with the Renewable Energy Pilot Program would be offset from the savings on the renewable energy resources within the chosen Missouri State Park or Historical Site. If implementation costs exceed realized savings, DNR may request additional funding through the normal appropriation process.

ASSUMPTION (Continued)

*Section 643.225 - Asbestos Business Exemption*

Officials at the **Department of Natural Resources (DNR)** assume any entity who applied, paid for, and obtained the asbestos business exemption as made previously available until the passage of HB 89 in 2011; would be eligible to obtain the asbestos business exemption again, after passage of this proposal, and would not be required to pay the requisite \$250 fee. Any new entities wishing to apply for and obtain the exemption would be required to pay the one-time fee of \$250 upon application.

DNR state it does not foresee a large number of entities wishing to pursue this exemption as the program has not received a new applicants since 2010. DNR is unaware of any potential new applicants, and therefore assumes no fiscal impact as a result of this proposal.

**Oversight** assumes there is no fiscal impact from this proposed section.

*Bill as a Whole*

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Office of Attorney General (AGO)** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

ASSUMPTION (Continued)

Officials at the **State Treasurer's Office, Missouri Public Service Commission, Office of Public Counsel, Department of Health and Senior Services, Department of Labor and Industrial Relations, Office of the State Auditor, and Harrison County Health Department** each assumes there is no fiscal impact from this proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE</b>			
<b><u>Section 253.090</u></b>			
<u>Revenue</u> - DNR - Loss of Interest Revenue	(\$66,000)	(\$52,000)	(\$37,000)
<b><u>Section 640.950</u></b>			
<u>Savings</u> - DNR - Renewable Energy Pilot Program	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> - DNR - Renewable Energy Pilot Program	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$66,000)</u></b>	<b><u>(\$52,000)</u></b>	<b><u>(\$37,000)</u></b>
<b>STATE PARK EARNINGS FUND</b>			
<b><u>Section 253.090</u></b>			
<u>Revenue</u> - DNR - Interest Revenue	<u>\$66,000</u>	<u>\$52,000</u>	<u>\$37,000</u>
<b>ESTIMATED NET EFFECT ON STATE PARK EARNINGS FUND</b>	<b><u>\$66,000</u></b>	<b><u>\$52,000</u></b>	<b><u>\$37,000</u></b>

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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**SAFE DRINKING WATER FUND**

**Section 640.100**

<u>Revenue</u> - Primacy Fees	<u>\$0 to</u> <u>\$3,833,333</u>	<u>\$0 to</u> <u>\$4,600,000</u>	<u>\$0 to</u> <u>\$4,600,000</u>
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<b>ESTIMATED NET EFFECT ON SAFE DRINKING WATER FUND</b>	<b><u>\$0 to</u></b> <b><u>\$3,833,333</u></b>	<b><u>\$0 to</u></b> <b><u>\$4,600,000</u></b>	<b><u>\$0 to</u></b> <b><u>\$4,600,000</u></b>
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<u>FISCAL IMPACT - Federal Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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**DRINKING WATER STATE  
REVOLVING FUND**

**Section 640.100**

<u>Revenue</u> - Federal Capitalization Grants	<u>\$12,000,000 to</u> <u>\$18,000,000</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>	<u>\$12,000,000 to</u> <u>\$18,000,000</u>
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<b>ESTIMATED NET EFFECT ON DRINKING WATER STATE REVOLVING FUND</b>	<b><u>\$12,000,000 to</u></b> <b><u>\$18,000,000</u></b>	<b><u>\$12,000,000 to</u></b> <b><u>\$18,000,000</u></b>	<b><u>\$12,000,000 to</u></b> <b><u>\$18,000,000</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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**FISCAL IMPACT - Small Business**

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## FISCAL DESCRIPTION

### *Section 253.090 - State Parks Earnings Fund*

The State Treasurer is authorized to deposit all of the moneys in the State Park Earnings Fund in any of the qualified depositories of the state and requires all these deposits to be secured in a manner provided by law relative to state deposits. Any interest earned on these deposits must be credited to the fund.

### *Section 640.100 - Extends the Safe Drinking Water Fee*

This proposal extends, from September 1, 2012, to September 1, 2017, the authorization for the Department of Natural Resources to impose fees for the implementation, administration, and enforcement of the federal Safe Drinking Water Act.

### *Section 640.950 - Renewable Energy Pilot Program for State Parks*

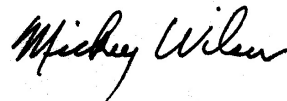
The Renewable Energy Pilot Program for State Parks requires the Department of Natural Resources, in consultation with the Missouri Public Service Commission, to develop and implement a pilot program with the goal of achieving 100% energy use from renewable energy resources in a department-selected state park by August 28, 2018. The department must attempt to use as many energy-efficient products as possible within the park.

Beginning August 28, 2012, the department must annually submit a report to the General Assembly documenting progress toward the goal and proposing alternative suggestions for future implementation until the pilot project is complete.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources  
Office of Administration - Division of Budget and Planning  
Office of Secretary of State  
Joint Committee on Administrative Rules  
St. Louis County  
St. Louis - Jefferson Solid Waste Management District  
Mid America Regional Council (MARC) Solid Waste Management District  
Region M Solid Waste Management District  
State Treasurer's Office  
Missouri Public Service Commission  
Office of Public Counsel  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Office of the State Auditor  
Harrison County Health Department



Mickey Wilson, CPA  
Director  
April 10, 2012